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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,778	02/08/2001	Jean M. Goldschmidt Iki	42390P6482D2	6744
7590	08/17/2006			EXAMINER CHOWDHURY, SUMAIYA A
Gordon R. Lindeen III BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP Seventh Floor 12400 Wilshire Boulevard Los Angeles, CA 90025-1026			ART UNIT 2623	PAPER NUMBER

DATE MAILED: 08/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/779,778	GOLDSCHMIDT IKI ET AL.
	<b>Examiner</b> Sumaiya A. Chowdhury	<b>Art Unit</b> 2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 17 July 2006.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1,2,4-10,12-18 and 20-25 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1,2,4-10, 12-18, AND 20-25 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7-17-06.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 7/17/06 has been entered.

### ***Allowable Subject Matter***

2. The indicated allowability of claims 1, 2, 4-10, 12-18, and 20-25, are withdrawn in view of the newly discovered reference(s) to Schein (6701527), Girard (5751282), Reimer (5559949), and Legall (6005565). Rejections based on the newly cited reference(s) follow.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 9–16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows.

Claims 9-16 recite "a storage medium having stored thereon a plurality of instructions" embodying functional descriptive material. However, the claim does not define a computer-readable medium or memory and is thus non-statutory for that reason (i.e., "When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized"). The examiner suggests amending the claim to embody the program on computer-readable medium or equivalent in order to make the claim statutory. For example, the preamble of claim 9 should read **--A computer readable medium encoded with computer executable instructions that when executed by the computer result in: --**. Further, note that any amendment to the claim should be commensurate with its corresponding disclosure.

#### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
6. Claims 1-2, 4-10, 12-18, and 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schein (6701527) in view of Girard (5751282) and Reimer (5559949) and Legall (6005565).

As for claims 1, 9, 17, 24, and 25, Schein teaches a, apparatus, method, and corresponding computer readable medium having stored thereon computer readable code comprising:

A program guide controller (14 – Fig. 1) to receive entertainment programming input (col. 5, line 52 – col. 6, line 7);

A selection controller (14 – Fig. 1) coupled to the program guide controller to identify multiple versions of an available entertainment program (Fig. 3, col. 6, lines 20-42);

identifying, for each of the multiple versions, a set of descriptive information (Source, Day, Time – Fig. 3) regarding the respective version, the descriptive information comprising a plurality of characteristics of the respective version (col. 6, lines 20-42);

identifying the differences in characteristics between the multiple versions (Fig. 3); and

A device controller (12 – Fig. 1), coupled to the selection controller, displaying the differences in characteristics between the multiple versions to a user (Fig. 3).

However, Schein fails to teach:

the descriptive information comprising a plurality of video and audio characteristics of the respective version; and

highlighting the differences in characteristics;

In an analogous art, Girard teaches the descriptive information comprising a plurality of audio characteristics (Stereo – Fig. 4).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Schein's invention to include displaying audio characteristics, as taught by Girard, for the advantage of allowing the user to decide if he/she would like to view the program based on various audio characteristic.

However, Schein and Girard fail to teach video characteristics and highlighting the differences in characteristics.

In an analogous art, Reimer teaches allowing the user to select a director's cut (col. 3, lines 25-30).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Schein and Girard's invention to include allowing the user to select a director's cut, as taught by Reimer, for the advantage of providing the user with additional desirable versions.

However, Schein, Girard, and Reimer fail to teach highlighting the differences in characteristics.

In an analogous art, Legall teaches wherein the search results that meet a certain criteria in an EPG are highlighted – col. 3, lines 10-23.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Schein, Girard, and Reimer's invention to include that the cells in an EPG which the same characteristics are highlighted, as taught by Legall, for the advantage of aiding a viewer to quickly and accurately differentiate pertinent data from non-pertinent data.

As for claims 2, 10, and 18, Schein, Girard, Reimer, and Legall teach the claimed limitations. In particular, Legall teaches displaying only the identified differences in characteristics – col. 3, lines 10-23.

As for claims 4, 12, and 20, Schein, Girard, Reimer, and Legall teach the claimed limitations. In particular, Schein teaches the characteristic is a source identifier (source – Fig. 3)

As for claims 5, 13, and 21, Schein, Girard, Reimer, and Legall teach the claimed limitations. In particular, Schein teaches the user selects one of a plurality of versions for display (406 – Fig. 4; col. 6, lines 50-65)

As for claims 6, 14, and 22, Schein, Girard, Reimer, and Legall teach the claimed limitations. In particular, Schein teaches wherein the multiple versions are available using different channel transport media (col. 2, lines 40-53; source – Fig. 3) the method further comprising displaying an identification of the channel transport medium for each respective version (source – Fig. 3).

As for claims 7, 15, and 23, Schein, Girard, Reimer, and Legall teach the claimed limitations. In particular, Schein teaches wherein the channel transport media include

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one or more of cable broadcast, satellite broadcast (DSS) – (Fig. 3, col. 2, lines 40-53, col. 6, lines 20-40)

As for claims 8 and 16, Schein, Girard, Reimer, and Legall teach the claimed limitations. In particular, Schein teaches wherein identifying multiple versions comprises searching through data of an electronic programming guide - (col. 6, lines 7-11).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sumaiya A. Chowdhury whose telephone number is (571) 272-8567. The examiner can normally be reached on Mon-Fri, 9-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571) 272-7292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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